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EASTERN

F.O.
371

1948

PALESTINE

7
FILE No.8.....

pp 657 - 1276

68613

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28

E

2

E 657

PALESTINE

JAN

Registry
Number

FROM

No.

Dated

Received
in Registry

E657/8/51

W L Hale

Colonial Office

12/1/48

12/1/48

12/1/48

Bill for Palestine.

Enclose copy of letter and instructions to
Parliamentary Counsel regarding the Bill
for Palestine.

Last Paper.

550

References.

E11543/46/9

E11043/46/9.

68613

(Print.)

(How disposed of.)

Off. W. L. Hale. C.O.
fr. W. L. Hale. Jan 21

(Minutes.)

Most of the points dealt with in the instructions to the Parliamentary Counsel are mainly the concern of the Colonial Office, since they deal with the details of the termination of the Palestine Administration. The Foreign Office are, however, considerably interested in Section 3(d) and have been consulted in the drawing up of a Directive for the G.O.C., covering his position during the period from the termination of the Mandate and the evacuation of British Forces. Mr. Beckett was present at an early meeting on this subject, and Mr. Evans has today attended with me another meeting. I attach the latest draft of the Directive.

There is one point of difficulty in the Directive from the general political angle, i.e. paragraph 8. This states:

"You have no responsibility for the preservation of law and order in any part of Palestine except as required by you for the purposes of evacuation".

It would, of course, be desirable from the practical point of view to absolve the G.O.C. from extra responsibility on this score. Nevertheless, as Mr. Evans pointed out, it is difficult to claim that the G.O.C. should have over-riding military jurisdiction in a certain area without any responsibility for maintaining law and order in that area. We can absolve the G.O.C. from any responsibility for administration but it will not be so easy to do so politically in regard to law and order. We might have a situation in which the United Nations' Commission, or members of their staff, arrived in the area controlled by the G.O.C. It would be very difficult to claim that he held no responsibility for their safety within the enclave.

I doubt if we can accept paragraph 8 as it stands and should be grateful for a ruling in time for the meeting of the Official Committee on Palestine to be held next Wednesday.

Mr. Evans first.

26513 F.O.P.

J.G.S. Beith.
16th January, 1948.

/i have

(Action
completed.)

(Index.)

12/1/48

12/1/48

Next Paper.

755

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I have discussed paragraph 8 with Dr. Beckett.
He is satisfied that it correctly represents the legal position.

In that case I suggest that ^{W. G. Brown} ^{10/1} ~~we can~~ leave
the para. as it stands. If the
UN Commission arrives in his
enclave the C.P.C. will no doubt
wish to arrange for their
protection provided they notify
him of all their movements
and do not go to areas
where he may not have
forces

B. S. Dennis
Jan 17

Yes, I think the G.O.C. must have
discretion as to the extent to which he
needs to maintain law and order.

H. Bealey 17/1

L. H. Pym
19/1

Yes.

B. S. Dennis
20.1

M. H.

20.1

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*Manly - I do
 I agree. I do
 not think we need
 make any
 comment.*

Dr. Fitzmaurice, 3

I think perhaps you
 had better see Mr. Beckett did
 not, I am afraid, see it & deal with
 it before he went away.

The only paragraphs in the Instructions
 to Parliamentary Counsel in which
 the R.C. is really interested are 3(d)
 and 5(c).

As to 3(d), this has been agreed in
 principle by Mr Beckett (see para 3 of
 his telegram on E 11003 in reply to
 C.O. telegram on E 1088).

As to 5(c), I think we must wait
 and see how things develop.

Do you think we need comment
 on any point and if so will you or

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Eastern Dept or 1 with to Parliament
 Council?

Vincent Evans
 21/11

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E. Dear
Please enter: urgently
answer any necessary P.P. & let me see
again with minutes by 4 pm. 11.2.48
W.E.B.

The Church House,
Gt. Smith Street,
Westminster, S.W.1.

Telephone: WHI. 2366
EXT. 44

12th January, 1948.

E 657

15 JAN

Dear Beckett,

On Roberts-Wray's behalf I enclose a copy of a letter and Instructions to Parliamentary Counsel regarding the Bill for Palestine. I would like to have obtained your concurrence in these Instructions before sending them, but we have been so pressed for time that this has not been possible. You will remember that you had some telegraphic exchanges with Roberts-Wray when you were in New York, regarding, in particular, the position of the Military forces in Palestine after termination of the Mandate. We have set out the position regarding this as we see it.

You will no doubt communicate direct with Parliamentary Counsel on any matters on which you wish to comment; but I hope you will find yourself in general agreement with the Instructions.

Yours sincerely,

W.E.B.

W. E. BECKETT ESQ., C.M.G., K.C.

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9 January, 1948.

75872/154/17/47

Dear Ellis,

I am now sending you instructions regarding the Bill for Palestine. The Cabinet at a meeting a few weeks ago, (CM(47)93rd Conclusions, Minute 1), authorised the Secretary of State to give instructions to you, and I assume that we can therefore dispense with obtaining the usual formal approval from the Treasury. You have already had a copy of a Cabinet Committee paper (O.C.P. (47) 17) which dealt with the legal position in a preliminary way, but I enclose another copy for reference.

I am afraid there are one or two gaps in these Instructions, but this is inevitable, and we will let you have any further instructions as soon as possible. In particular we are very uncertain what, if any, financial provision will have to be made, and I think it conceivable that we may have to have a supplementary Bill to deal with it, as it may not be possible to ascertain what the financial liabilities of His Majesty's Government will be until after withdrawal. The date of withdrawal was originally fixed as 15th May; but it is quite possible that the date will now have to be some week earlier.

Negotiations are shortly to begin in New York between ourselves and the United Nations Commission for Palestine regarding assets, liabilities and other matters.

In/

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In case it may assist you, I also enclose a memorandum prepared by the Palestine Attorney General whilst working here a few weeks ago, which deals shortly with the various Acts of Parliament affecting Palestine. I had hoped to have this brought up to date as regards the "action" part, some of which is not right, but there has not been time to do this, and of course consultations with the various Departments are continually going on. I thought, however, that you might like to have this memorandum in its present state, which at any rate contains a useful list of Acts of Parliament.

I am sending a copy of this letter and the instructions to Beckett at the Foreign Office and asking him to let you have any comment he has direct.

Yours sincerely,

R. C. R. W.
(W)

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INSTRUCTIONS TO PARLIAMENTARY COUNSEL

1. O.C.P. (47) 17 deals with the general legal position as it was envisaged on the basis of withdrawal from Palestine on a date so early that it would not have been possible to have an Act of Parliament before that date. It has subsequently been decided that His Majesty's jurisdiction in Palestine will cease, and the withdrawal of civil government take place, on a date which will give time for a Bill to be introduced and passed before the date of withdrawal. The main principles laid down in O.C.P. (47) 17 stand, but it will be possible to cover in the Bill certain matters which it was intended to deal with de bene esse by Order in Council under existing powers, but which it would not have been possible to deal with entirely adequately.

2. It is suggested that it will not be necessary or appropriate in the Bill to provide in terms for the cessation of His Majesty's jurisdiction in Palestine. This jurisdiction was acquired as the result of the bestowal of the Mandate on His Majesty by the League of Nations (see the preamble to the Palestine Order in Council 1922 enclosed) and is exercised under the Foreign Jurisdiction Act. The jurisdiction will be lost when His Majesty gives up the Mandate. But it will be useful if we can have a short preamble to the Bill, referring to the resolution of the General Assembly of the United Nations of 29th November, 1947 recommending the adoption of the Partition Plan, Part 1, and paragraph 1 of which provides for termination of the mandate (a copy of this document is enclosed in O.C.P.(47)22). The Preamble could go on to say that on a named date the Mandate will be terminated, and His Majesty's jurisdiction in Palestine will cease. It will also be useful to have in the Bill a clause saying that after that date His Majesty will no longer be responsible for the government of Palestine - on the lines of Section 1 (2) of the Ceylon Independence Act.

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3. The Bill should deal with matters listed in paragraph 6 of O.C.P. (47) 17 as follows:-

(a) Privy Council Appeals.

It seems essential to have something on the lines of Section 4 (1) of the Burma Independence Act, notwithstanding the remarks made in the House of Commons in the debate on this section (see Hansard, of 14th November, 1947 Cols. 735 and 736).

(b) Finance. Some financial provision may be required but it is not yet possible to say what. Instructions on this will be sent as soon as possible.

(c) Acts of Parliament applicable to Palestine.
(See paragraph 4 below).

(d) Legal cover for Acts of Military forces while withdrawing.

As explained in O.C.P. (47) 17, it will not be possible to withdraw all military forces until a few months after cessation of jurisdiction and civil government. We want these forces to have the powers possessed by a Military force in occupation of foreign territory, but there is some doubt whether these powers can be said to exist to the full extent required in a case of this sort where the forces are not (and have not been since the conclusion of the 1914 - 1918 war) in occupation of enemy territory. To any claim for damages for acts committed by the Military, "act of State" would probably be a good answer to a claim made by persons not British subjects. Some of the persons affected may, however, be British subjects. We

therefore/

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therefore need a clause in the Bill giving a general authorisation to the armed forces of the Crown to do all acts necessary to ensure the safe, speedy and orderly withdrawal of themselves and their property from Palestine; and to provide that no action in respect thereof should be brought in any British courts - so that, for example, it would not be possible to bring an action against a Military Commander in the courts of Cyprus.

4. Acts of Parliament.

(i) Colonial Development Act 1929 and Colonial Development and Welfare Acts 1940 - 1945.

The latter Acts provide for schemes to be made by the Secretary of State with the consent of the Treasury. The Acts contain no power to revoke a scheme once made. There are only two or three small schemes not completed, and we shall let these lapse on the date of withdrawal. There are no loans outstanding under these Acts (or under the 1929 Act) it is thought therefore that no provision will be required to deal with these Acts.

(ii) Administration of Justice Act, 1920.

Part II was extended to Palestine. Order in Council (S.R. and O. 1923, page 419) will ultimately have to be revoked, but it would be reasonable to allow a transitional period in which any judgments obtained in the Palestine courts and not yet registered here may be so registered under section 9 of the Act. There is no power to make such transitional arrangements under the Act.

A similar position arises under the Colonial Probates Act, 1892 and 1927 and S.R. & O. 1929, page 1.

(iii)/

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- (iii) The Palestine Loan Act, 1934 and the Palestine and East African Loans Acts 1928 and 1932
(see also Finance Act 1928, section 32).

The 1934 Act should be repealed and also the references to Palestine contained in the other Acts. There must, however, be saving provisions for outstanding loans and guarantees. This question is being examined in detail and further instructions will be sent.

- (iv) Army and Air Force Acts.

It is possible that the Service Departments might like some modification here to meet the position that our forces will still be in Palestine after the termination of the Mandate (see, for example, Army Act, section 175 (12), section 176 (11) and section 177) and they have been asked for their views. It seems unlikely that anything will be required.

- (v) Companies Act, 1929.

There are two Orders in Council, S.R. and O. 1934, page 668, and S.R. & O. 1935, page 223. The first can be revoked and the matter need not be dealt with in the Bill, provided that companies registered here with branch registers in Palestine, transfer the contents of their branch registers here before the date of termination of Mandate. Section 107 does not, however, confer any power to revoke an Order made under it, and as the 1935 Order will clearly have to be revoked, it seems necessary to confer such a power by the Bill. (The Board of Trade have seen and have no comments on the above).

- (vi) Teachers (Superannuation) Act 1925, and S.R. & O. 1933, page 781.

Palestine will disappear from these arrangements, but possibly a saving may be required in respect of, for example, teachers who have served in Palestine. The Board of Education is being consulted about this. Items (iii) and (iv) should presumably be dealt with specifically (if at all) in the Bill.

Items

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Items (ii), (v) and (vi) could perhaps be dealt with by some general provision conferring the necessary authority on His Majesty to make Orders in Council (see paragraph 5 below).

5. We propose by Order in Council -

- (a) to provide for the termination of the office of High Commissioner and certain other parts of the Constitution, for example, Executive and Advisory Councils;
- (b) to give the High Commissioner appropriate powers to make Orders amending the local law as far as required for the withdrawal;
- (c) possibly to provide for handing over powers, assets etc., to the United Nations Commission (but we are uncertain about this yet as negotiations have not yet begun).
- (d) to deal with the Act and Orders in Council mentioned in the preceding paragraph having effect in the United Kingdom;
- (e) to revoke certain Orders in Council (or parts of Orders) made either under the Foreign Jurisdiction Act or under specific Acts, which Orders in Council have effect as part of the law of Palestine. The general principle will be to leave in force Orders in Council forming part of the ordinary law. Examples of such orders, which may however need some amendment, are the Palestine (Holy Places) Order in Council 1924, and the Palestine Currency Order, 1927 (both made under the Foreign Jurisdiction Act); S.R. & O. 1936, Vol. 1, page 930 made under the Whaling Industry (Regulation) Act, 1934; and S.R. & O. 1941, page 269, made under the Evidence and Powers of Attorney Act.

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Act, 1940. These can stay for the time being without any express alteration. Later on (i.e. after withdrawal) they can be revoked for the sake of tidiness. The power given by, for example, the Foreign Jurisdiction Act (Section 10) to revoke an Order in Council can presumably be exercised notwithstanding that His Majesty will have ceased to have jurisdiction.

But it will be inappropriate to leave in force certain Orders, for example, parts of the Palestine Orders in Council, 1922 - 1940; the Palestine (appeal to Privy Council) Order in Council, 1924; and possibly the Palestine (Defence) Order in Council, 1937. It will probably be useful to have power to make these revocations in one or more omnibus Orders; and generally it is suggested that it would be most useful to confer power on His Majesty by Order in Council to make such provision for the revocation or variation of Orders in Council and other subsidiary legislation as is expedient having regard to the termination of the Mandate and the cessation of jurisdiction (compare the Irish Free State (Consequential Provisions) Act, 1922, section 6). This provision could perhaps also cover the point mentioned in paragraph 5 (d) above.

6 Another point arises in regard to officers of the Palestine Government who will be on leave or seconded for other duty after the date of withdrawal pending re-employment in Government Service elsewhere. It seems necessary to provide that they shall be deemed to continue in the meantime in the Service of the Government of Palestine, for the purposes of e.g. S.4 of the Pensions (Governors of Dominions etc.) Act 1929, and S.2 of the Pensions (Colonial Service) Act, 1887. A similar point arises under Colonial pensions legislation.

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657/8/31

9
FOREIGN OFFICE, S.W. 1.

22nd January, 1948.

As Bockett is at present in the United States your letter to him of the 12th January, enclosing a copy of instructions to Parliamentary Counsel regarding the Bill for Palestine, has been passed to me. I have read the instructions and have no comments to make.

I am sending a copy of this letter to Ellis at the Office of the Parliamentary Counsel.

(Signed) W.V.J. EVANS.

JB Jan 23

W.L. Dale, Esq.,
Colonial Office,
Church House.

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 E: 972/ " "
 E: 1083/ " "

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PALESTINE

E 52

29 JAN 1933

Registry
Number

FROM

No.

Dated

Received
in Registry

E 929/8/31

60

Perman

22 Jan.

date of termination of Mandate
 Political of 126 of Jan 19. Commission should
 be fully informed of the situation in Palestine
 Also date of termination of Mandate should
 be decided for the benefit of the Political
 Administration and for information of
 the Commission.

Last Paper.

E 856

References.

V.N. Political Dept.
 A.A. 21.1.

H.B. Bealey 22/1

L.E.L. Pyman
 22/1

(Print.)

(How disposed of.)

Off W.O.P. Watson
 80

from H.B. Bealey 24/1.

(Action
completed.)

G.L.B.

(Index.)

24/1/33

Next Paper.

971

30471 F.O.P.

Letter to C.O.

H.B. 24/1

M.T.H.

24.1

R.T.O.

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H.B. 3/2

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22 JAN 1948

INWARD TELEGRAM.

TO THE SECRETARY OF STATE FOR THE COLONIES.

Enclw
16 11

E: 52: EQ29

Cypher (O.T.P.)

FROM PALESTINE (General Sir A. Cunningham)

22 JAN 1948

D. 19th January, 1948.

R. 19th " " 14.25 hrs.

MOST IMMEDIATE

No. 126 Top Secret and Personal.

Addressed to the S. of S.
Repeated to the United Kingdom Delegation No. 142 for
Fletcher-Cooke (Washington please pass).

Against background of present events in Palestine and our imminent withdrawal the situation at Lake Success seems to me so unrealistic as to be almost unbelievable. Our delegation appears to be only in a position to make vague statements to the (Y.U.N.O. omitted) Commission and the latter have apparently up to date merely been able to think of asking a series of questions dealing with Jewish immigration. Yet there are two major matters of utmost and catastrophic urgency from practical point of view affecting us here, the first that the (Y.U.N.O. omitted) Commission should be apprised at the earliest possible moment what our view of the situation in Palestine is, the second that the actual date of the termination of the mandate should be known within the next week or two.

2. I have I think made it abundantly clear in telegram, all of which I hope are by now in the possession of U.K.D.E.L., that strife in Palestine when we leave will greatly intensify; approaching to a state of war which may have far reaching consequences. An international force at the very best might keep the situation in something like the same state as it is now, although this is unlikely, but I must repeat that international status of the force and Commission will mean little or nothing to the Arabs in Palestine, and cannot with the Jews (Y.U.N.O. omitted) and associated with other considerations. Cooperation by the Jews could have some effect in mitigating this ugly predicament but the partition plan is manifestly unfair to the Arabs.

This seems a very fruitful field for explanation in order to avoid disaster, but the Commission appears only to be thinking of partition of Jews and not how to avoid certain bloodshed on a very much widened scale than now. It is time to think of Security Council then the sooner they are apprised of the situation the better.

3. When we said that we could withdraw the Government of Palestine at one month's notice we assumed that some of our problems would have been settled first. But in fact we have decisions on almost none of them and at this late stage we can make no further progress with planning until we know what date we terminate the mandate.

If the date is as late as April we have a vast amount of work to do with depleted staffs and only some 6 weeks in which

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to do it. There are a number of problems which we have not yet reported because we have not found solution ourselves.

It is essential therefore for our purposes that we should know the date not later than the end of this month and I hope that the Commission can be brought to a sense of reality by being informed that any views they may wish to put forward in this connection must be advanced in time for a definite decision to be taken by then.

²Correction being obtained.

Distributed to:-

R. 243
Secretary of State
Sir T. Lloyd
Mr. Rees Williams
Sir S. Osine
Sir C. Jeffries
Mr. Holding
Mr. Martin
Mr. Trafford Smith
Mr. Gutch
Mr. Mathieson
Mr. Higham
Mr. Galworthy
Mr. Holmer
Mr. Dale
Foreign Office

- Mr. H. Bealey.

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TOP SECRET

The Church House,
Gt. Smith Street,
London, S.W. 1.

23 January 1948

My Reference 75872/159/15.

Your Reference

INDEXED

E 929 / 8 / 11

My dear Bealey,

We discussed on the telephone telegram No. 126 from the High Commissioner for Palestine, a copy of which you have, about the discussions in New York. Our Secretary of State is anxious to send a reply to the High Commissioner as soon as possible and we have prepared a draft which I now enclose. As this draft contains matters which are certainly the concern of the Foreign Office, we would be reluctant to submit it to higher authority here before we had had your general blessing on it. Perhaps you will let me know urgently if you have any comments on it or any amendments you would wish to see made.

Yours ever,
W.A.C. Mathieson
(W.A.C. Mathieson)

H. BEALEY, Esq., CBE.

Mr Burns
I think we can approve
this if you agree I will
write to Mr. Mathieson at once
14/2/48

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75872/159/15.

WT 4/685. 8/47. 50,000. S. & S. Ltd.

C. O.

Mr. Nathieson *off*
 Mr. Nathieson *off*
 Mr. Nathieson *off*
 Mr. Nathieson *off*
 Mr. Nathieson *off*
 Mr. Nathieson *off*

Permt. U.S. of S.
 Parly. U.S. S.
 Secretary of State.

Your Reference

DRAFT. TELEGRAM.

PHER OTP

IGHCOMA,
 BRUSSELS.

peated to:
 DEL, New York.

Addressed High Commissioner, Palestine,
 No. Top Secret & Personal.
 Repeated to UKDEL, New York, for
 Fletcher-Cooke, No. Top Secret
~~Personal~~.

I have not yet seen the full text
 of the statements ~~made~~ by Cadogan
 referred to in New York telegram to
 Foreign Office No. 99 repeated to you,
 but I understood from conversations
 with Fletcher-Cooke before he left for
 New York that he was fully prepared
 to give a detailed description of
 recent developments in Palestine especially
 from the security point of view. I have
 therefore no doubt that the Commission
 is in full possession of the facts
 as set out by you in your telegram and in
 the message that you sent ^(Gmely) with Fletcher-
 Cooke. I agree that their reaction as
 reported so far is not as ~~bad~~ ^{bad} as
 might have been expected, but I should
 not wish our representatives there ^{so} to
 enlarge on the horrors facing the
 Commission that they will be driven to
 /appeal

*New York Telegram No 166
 repeated to you para 2
 says that such a
 statement has been
 made to Commission
 FURTHER ACTION.*

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appeal to the Security Council for the provision of an international force to assist them in their task.

2. Although we felt it our duty at the General Assembly to reiterate our view that a substantial degree of outside force

~~would~~ ^{did} ~~will~~ be required to impose any plan not generally acceptable to both communities, we ~~would~~ ^{did} not thereby imply that we ourselves ~~should~~ ^{did} see the United Nations impose such a solution by recourse to international coercion. Our main anxiety now is to localize the inevitable conflict in Palestine and prevent it from developing into a large-scale flare-up in the Middle East with the intervention of outside powers. I fully agree that some accommodation between the parties can only be hoped for if the Jews are prepared to abate their present demands, but they are exceedingly unlikely to do this so long as they believe they can rely on armed assistance from outside Palestine to secure for them ^{every detail} ~~the last fragment~~ of the Lake Success award. If the Jews were to be finally disappointed in this belief we might then find some opportunity ^{for successful mediation} ~~to mediate any conflict~~ and arrive at a lasting settlement.

3. In connexion with the question of the date of termination of the Mandate I have recently had discussions with certain of my colleagues and we hope to arrive at a firm conclusion very shortly. I share your view of the vital importance of a firm decision on this matter in the very near future. I do not regard any views which

/the

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114

the Commission may put forward as being necessarily decisive in reaching this decision. We propose to base it on our assessment of the problem and our vital interests and if these factors lead us to a definite conclusion we should not allow the wishes of the Commission to divert us from our course.

4. I much regret that you should feel that on ~~the~~ ^(of the) many points ~~at~~ which you have referred ^{to me} ~~us~~ for guidance you have been left without ^{guidance,} a decision. ~~Every effort is being made~~
~~I am having this problem examined~~
~~to expedite decisions.~~
~~separately as a matter of urgency.~~

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15
FOREIGN OFFICE, S.W.1.

24th January, 1948.

IMMEDIATE.

SECRET.

My dear Mathieson,

Please refer to your letter No. 75972/159/15 of the 23rd January, enclosing a copy of a draft reply to Jerusalem telegram No. 126. We have given careful consideration here to your draft, and we are in entire agreement with the line you propose to take.

You will now be able, as a result of the meeting between Ministers this morning, to amend paragraph 3 and to give the High Commissioner a firm decision on the date for ending the Mandate. We also suggest one small change in the drafting of paragraph 2 where, in the last line but four, "every detail" would be less ambiguous than "the last fragment".

Provided the other paragraphs stand as now drafted, we shall not, of course, want to see your redraft of paragraph 3 before the telegram is sent.

(Signed) H. Beeley.

W. A. C. Mathieson Esq., M.B.E.,
Colonial Office.

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p.w. 16

OUTWARD TELEGRAM.
FROM THE SECRETARY OF STATE FOR THE COLONIES.

75872/159/15

Cypher (O.T.P.)

INDEXED

E 929 / 8 / 31

TO PALESTINE (Gen. Sir A. Cunningham)

Sent 27th January, 1948. 19.00 hrs.

IMMEDIATE

No. 335 Top Secret.

Addressed High Commissioner, Palestine.
Repeated to U.K.D.E.L., New York, for Fletcher-Cooke.

Your telegram No. 126.

I have not yet seen the full text of the statements by Cadogan referred to in New York telegram to Foreign Office No. 99 (repeated to you) but I understood from conversations with Fletcher-Cooke before he left for New York that he was fully prepared to give a detailed description of recent developments in Palestine especially from the security point of view. Paragraph 2 of New York telegram No. 186 (repeated to you) shows that such a statement has been made to Commission. I have therefore no doubt that the Commission is in full possession of the facts as set out by you in your telegrams and in the message that you sent to me by Fletcher-Cooke. I agree that their reaction as reported so far is not as brisk as might have been expected, but I personally should not wish our representatives there so to enlarge on the sombre prospects in Palestine that the Commission will be driven to appeal to the Security Council for the provision of an international force to assist them in their task.

2. Although we felt it our duty at the General Assembly to reiterate our view that a substantial degree of outside force would be required to impose any plan not generally acceptable to both communities, we did not thereby imply that we ourselves should like to see the United Nations impose such a solution by recourse to international coercion. Our main anxiety now is to localize the inevitable conflict in Palestine and prevent it from developing into a large-scale flare-up in the Middle East with the intervention of outside powers. I fully agree that some accommodation between the parties can only be hoped for if the Jews are prepared to abate their present demands, but they are exceedingly unlikely to do this so long as they believe they can rely on armed assistance from outside Palestine to secure for them every detail of the Lake Success award. If the Jews were to be finally disappointed in this belief we might then find some opportunity for successful mediation and arrive at a lasting settlement.

3. In connexion with the question of the date of termination of the Mandate, I have now had discussions with certain of my colleagues in which the question has been reviewed from all aspects and the considerations urged by you fully taken into account. We have reached the conclusion that we must adhere to the date of 15th May for the termination of the Mandate and 1st August for the completion of the military withdrawal. It is fully understood that during the remaining period of the Mandate the civil government in Palestine will be

/exercising

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exercising a weakening authority in a contracting range of functions and the great strain thereby imposed on the civil government is realized. We have also taken account of the probability of pressure both in this country and from the Commission for an earlier date but have decided that this pressure must be resisted. We do not regard any views which the Commission may put forward as decisively affecting our decision on this matter. We have based it on our assessment of the problem and of our own interests and as these factors have led us to a definite conclusion we cannot allow the wishes of the Commission to divert us from our course. I am conscious of and regret the burden which is imposed by our decision on yourself and the officers of your administration. Only conviction of the overriding requirements of the military withdrawal has compelled me to accept it.

4. I much regret that you should feel that on many of the points which you have referred to me you have been left without guidance. Every effort is being made to expedite decisions.

(Copies sent to Foreign Office for transmission to New York).

Distributed to:-

R.243
 Secretary of State
 P.S. to Minister of State
 Sir T. Lloyd
 Mr. Rees Williams
 Sir S. Caine
 Sir C. Jeffries
 Mr. Holding
 Mr. Martin
 Mr. Trafford Smith
 Mr. Gutch
 Mr. Mathieson
 Mr. Higham
 Mr. Galworthy
 Mr. Holmer
 Mr. Dale.

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E

E 984

23 JAN 1948

PALESTINE

1948

Registry
Number E984/8/31

TELEGRAM FROM

No. R 11 F O

Dated 6/1/48

Received
in Registry 3 Rmc22 Jan
23 -

proposal of buying stores and food goods.
relates to it for information & may say
specific instructions.

Last Paper.

972

References.

(Print.)

(How disposed of.)

(Minutes.)

I have warned Miss Longhorne
and suggested that try to take
account of all the other
arrangements for disposals (eg.
a political considerations)
Gen. Hewer & the will commit
of BMEC on wed
Mr Curran when he gets back
& ask what they mean.
I suppose BMEC are referring
mainly to financial conditions.
But it is all rather obscure.
ER Dystide
M.E.C.

JB Jan 23

(Action
completed.)

L.C. 16/30/

(Index.)

1/2/48

Next Paper.

988

30471 F.O.P

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E 982

23 JAN 1948

No. 3 Remac

D. 5.17 pm. 22nd January,
1948.

22nd January, 1948. R. 6.28 pm. 22nd January, 1948.

Disposal surplus stores and fixed assets.

Palestine. Do you intend issuing any special instructions?

⌘ ⌘ ⌘

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29

E

19

E 988

1948

PALESTINE

23 JAN 1948

Registry
Number

FROM

No.

Dated

Received
in Registry

E988/8/31

J. Higham

80.

75872/159/16

21 Jan

23 ~

Control Govt Services in Palestine
 January 10 and 11, 1948, have been considering
 the status of the Control Govt Services in
 Palestine and to operate after the termination
 of the Mandate. Will have to consult
 H.C. before submitting paper to official Committee
 later to this step under view of H.C. Legal
 Adviser.

Last Paper.

984

References.

(Minutes.)

Mr Evans for urgent obs. psc

J. S. Davis
Jan 24

(Print.)

(How disposed of.)

D. J. Higham 80.

Comr. Russell Edmunds 80.

S. E. Key. W.O. F.S.

Col. Barker's M.O. 4.

Mr White man 80/8/16

Jan 29.

(Action
completed.)

(Index.)

PC 29/1
 10/8

Next Paper.

988
 10/8

My advice on the three points put by the
 Colonial Office is as follows.

(a) The military commander may do anything in the areas of military control which is necessary to enable him to achieve his object. Subject to this, he must interfere with the ~~civilian administration~~ and life of the inhabitants as little as possible. He should therefore leave the operation of public services as much as possible to the authorities normally responsible for them. But, in so far as the achievement of his object makes it necessary for him to assume control of those services and to prevent the authorities normally responsible from exercising their functions, or in so far as those authorities fail to operate, he may, and possibly should to the extent which the achievement of his object and his resources permit, undertake so much of the operation of those services as is necessary to his purpose or enable the civil administration of the country to be carried on with the minimum of interference.

Within these limits, therefore, the military commander is in my opinion fully entitled to raise revenue from the operation of railways, ports and customs for civilian purposes in the areas under his control. It is, however, a recognised principle of international law that if a military occupant collects taxes etc. he should do so as far as possible in accordance with the legal basis and assessment in force under the ordinary law of the country.

This/

29470 F.O.P.

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This does not preclude an increase of taxes etc. provided that the procedure for their collection and the distribution of their burden remains so far as possible the same. ~~There is an exception to this rule which is that when the impost represents only a charge for services and they are insufficient to meet the expenses to the military occupant of providing the services, he may make a reasonable charge to cover his expenses.~~ In my opinion the military commander in Palestine would not be entitled to levy contributions to meet the expenses of his forces.

(b) and (c). A military occupant is bound to apply revenue collected by him in defraying the expenses of the civil administration of the territory under his control to the same extent as it would be so applied by the legitimate authorities of the country. When a military occupant establishes a full military government, he is entitled to appropriate to the use of his army any balance remaining after disbursement of the expenses of the civil administration.

In my opinion the military commander in Palestine may apply revenue derived by him from civilian sources first in defraying the expenses of so much of the civil administration as he undertakes, to the extent that such expenses have not been incurred on account of his forces. Any balance should be paid by him to the civil authorities which would otherwise be entitled to receive it. Having regard to the circumstances in which he will exercise military jurisdiction in Palestine and to the fact that it is not intended to establish a full military government, the military commander should not in my opinion appropriate any part of the balance to the use of his forces.

N.V.J. Evans
N.V.J. EVANS

26th January, 1948.

Draw
JB Jan 28

In P.P. 80. Lammid to M. Reick 24/2
to M. Reick 27/2

JB Mar 11

In P.P. J. P. 75872/159/16/48 to M. Reick 8/3

JB Mar 11

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Minutes. ~~INDEXED~~

20

Mr Evans

E 988 / 8 / 11

Please see CO. draft
attached which quotes
liberally from your
opinion stated on
E 988 / 8 / 31.

Do you agree to
the draft?

Mr. Davis
Feb. 25

for
[Signature]

I have told the CO.
We consent generally but
suggested taking out para.
5. I don't think we
can expect further obs.
from N. York at present.
Palestine must comment
first
JB Feb. 27

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Colonial Office,
The Church House,
Great Smith Street,
London, S.W.1.

My Reference 75872/159/16

Your Reference

21st January, 1948.

Confidential

E 088

My dear Beeley,

23 JAN 1948
We have been considering in connection with the Treasury and War Office how certain of the Central Government Services in Palestine are to operate after the termination of the Mandate. You may recall that we were invited to submit a paper to the Official Committee on Palestine on these points, but we are not yet in a position to do so and shall certainly have to consult the High Commissioner before finalising our views. Before we proceed further we should be grateful for the opinion of the Foreign Office legal advisers on a point of principle.

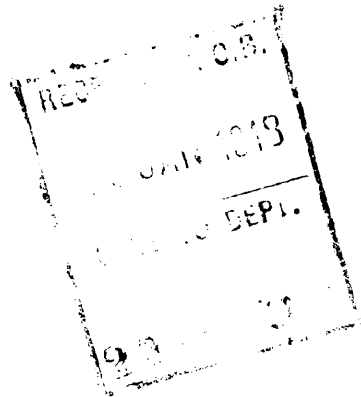
It will be almost certainly necessary to continue the operation of the railways, at least in the areas of military control, during the whole of the period between the 15th of May and the 1st of August. This will of course cost a considerable sum of money - a provisional estimate puts the figure at some £100,000.

It will also be necessary to continue the operation of the port not only for the purposes of the evacuation but in order to permit the importation of essential supplies for

/the

H. BEELEY, ESQ., C.B.E.

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the use of the country as a whole; this would normally entail the collection of port dues and other revenue, while expenditure on port maintenance and other services during the 2½ months period is estimated at £150,000.

Further, almost the whole of the normal customs revenue for Palestine is collected at Haifa; the present revenue is approximately a million pounds a month. Customs duties account for some 50% of the revenue of the whole country. While it is to be expected that importers will have arranged to hold back a substantial portion of the consignments that would normally have been delivered between the 15th of May and the 1st of August, and while arrangements will be made to divert as great a proportion of the traffic as possible to Jaffa and Tel Aviv, it will almost certainly be necessary to clear a substantial quantity of goods through the customs.

In theory the operation of railways, ports and customs will be a function of the Joint Economic Board but it is doubtful whether either the Commission itself or the Joint Economic Board will be able to function in the enclave during the transitional period. As you know the Army are most anxious to limit their responsibility for Civil Administration strictly to matters essential for the evacuation. They may

/therefore

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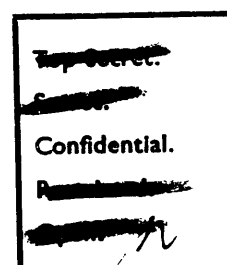
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- As this is one of the questions that may be raised in New York we should be grateful for your legal advisers' opinion as early as possible.

(J. D. Higham)

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No.

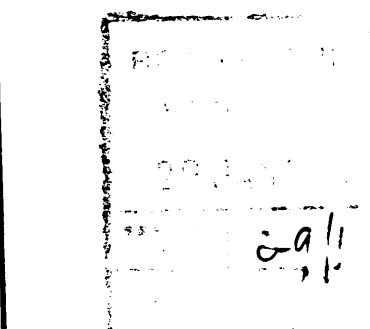


JGBB.

Draft.

Mr. J. Higham,
Colonial Office.

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from:
J.G.B. Beith.

Copies to:
Russell Edmonds,
Treasury.
C.E. Key,
War Office F.5.
Col Chartres,
War Office M.O.4.
Mr Hitchman,
Cabinet Office.

Mr Evans

JD Jan 28

29 Jan 23
X4 OUT FILE

FOREIGN OFFICE, S.W.1.

29 January, 1948.

I am replying to your letter No.
75872/159/16 of January 21st to Beeley
about the operation of certain Central
Government Services in Palestine after
the termination of the Mandate.

We have consulted our Legal
Adviser ^{Evans'} and I attach a copy of ~~their~~
opinion, which I read out at a recent
meeting in Hitchman's room.

I am sending copies of this letter
to Russell Edmonds, Key, Charteris and
Hitchman *to whom I gather you*
will be sending copies of
your letter under refce.

JD Jan 28

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(33051) Wt.14096.147 75,000 6:47 A.S.E.W.Lcl. Gp.685

Registry
No.

Top Secret.
Secret.
Confidential.
Restricted.
Open.

Draft.

24
X 4

(a) The military commander may do anything in the areas of military control which is necessary to enable him to achieve his object. Subject to this, he must interfere with the legitimate civil authorities and life of the inhabitants as little as possible. He should therefore leave the operation of public services as much as possible to the authorities normally responsible for them. But, in so far as the achievement of his object makes it necessary for him to assume control of those services and to prevent the authorities normally responsible from exercising their functions, or in so far as those authorities fail to operate, he may, and possibly should to the extent which the achievement of his object and his resources permit, undertake so much of the operation of those services as is necessary for his purpose or enables the civil administration of the country to be carried on with the minimum of interference.

Within these limits, therefore, the military commander is in my opinion fully entitled to raise revenue from the operation of railways, ports and customs for civilian purposes in the areas under his control. It is, however, a recognised principle of international law that if a military occupant collects taxes etc. he should do so as far as possible in accordance with the legal basis and assessment in force under the ordinary law of the country. This does not preclude an increase of taxes etc. provided that the procedure for their collection and the distribution of their burden remains so far as possible the same. In my opinion the military commander in Palestine would not be entitled to levy contributions to meet the expenses of his forces.

(b) and (c). A military occupant is bound to apply revenue collected by him in defraying the expenses of the civil administration of the territory under his control to the same extent as it would be so applied by the legitimate authorities of the country. When a military occupant establishes a full military government, he is entitled to appropriate to the use of his army any balance remaining after disbursement of the expenses of the civil administration.

In my opinion the military commander in Palestine may apply revenue derived by him from civilian sources first in defraying the expenses of so much of the civil administration as he undertakes, to the extent that such expenses have not been incurred on account of his forces. Any balance should be paid by him to the civil authorities which would otherwise be entitled to receive it. Having regard to the circumstances in which he will exercise military jurisdiction in Palestine and to the fact that it is not intended to establish a full military government, the military commander should not in my opinion appropriate any part of the balance to the use of his forces.

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OUT FILE
FOREIGN OFFICE, S.W.1.

29th January 1948.

(E 988/8/31)

CONFIDENTIAL.

My Dear John

I am replying to your letter No.75872/159/16 of January 21st to Beeley about the operation of certain Central Government Services in Palestine after the termination of the Mandate.

We have consulted our Legal Advisers and I attach a copy of Evans' opinion, which I read out at a recent meeting in Hitchman's room.

I am sending copies of this letter to Russell Edmonds, Key, Charteris and Hitchman to whom I gather you will be sending copies of your letter under reference.

Yours sincerely

ad (J.G.B. Beith)

J. Higham, Esq.,
Colonial Office.

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Tel. : WHI. 9191

Extension _____

Communications on this subject
should be addressed to :—
THE UNDER-SECRETARY OF
STATE,
and the following number quoted :

Your Reference.....

COLONIAL OFFICE,
~~CHURCH HOUSE~~
~~DOWNING ST.~~
47. SMITH STREET.
S.W.1.

Mr JKB. Beith.
Foreign Office.

E 988 / 8 / 21

INDEXED

With Mr Hiphams
compliments.

For your observations, please.

24.2.48

26

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75872/159/16.

27

Higham

SAVINGRAM

DRAFT FOR CONCURRENCE

PRIORITY
SECRET

HIGHCOMA,
JERUSALEM.

Repeated:
UKDEL, New York.

MAINTENANCE OF RAILWAYS AND PORT
SERVICES AND COLLECTION OF REVENUE
AFTER 15TH MAY

I should be grateful for your views in consultation with the GOC on certain questions relating to the maintenance of certain central Government services and the collection of port dues and customs revenue after 15th May.

2. In this connexion your attention is invited to the draft directive and administrative instruction to the GOC copy of which was forwarded by Top Secret Priority Savingram No. 27 of the 23rd January. Some slight amendments have now been incorporated in the draft (which is still awaiting the comments of the Chiefs of Staff) and for convenience of reference, paras. 9 and 10 of the Directive and 1 and 4 of the Administrative Instruction are reproduced below.

3. Extract from the draft Directive:

copies of savingram as
issued to go to
to: Mr. H.G.B. Beith.
to: Lt. Col. St. Mon.
to: M.C. Charteris.
reasury: Lt. Col.
W. Russell-Adams,
ED.

copy to be put in
75872/160.

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"9. It is no part of your duty to undertake any administration of any part of Palestine except in so far as it is essential in order satisfactorily to achieve your object. You will, however, conduct the evacuation with due regard to the welfare of the civilian population and the economy of the country."

"10. You will allow such civilian authority as may be effected in any area under your control to operate to the greatest possible degree and you should interfere only when necessary to achieve your object."

4. Extract from Administrative Instruction:

"1. All expenditure on the civil administration of the areas under your control should be met by whatever civil authorities are functioning in the area. Only if these authorities refuse to meet expenditure on services of this nature which you consider to be essential for the purpose of the military evacuation should any expenditure be incurred by us. In the event of such expenditure being unavoidable separate records should be kept as far as possible of the amounts spent in order that subsequent recovery may if necessary be effected from the appropriate authorities. Similarly records should be kept of stores, surveys and supplies used for such purposes."

"4. You are authorized to employ temporarily officers of the former Government of Palestine under the arrangements described below to the extent that this may be essential to assist in the military evacuation. If such officers are required for purely military purposes or to act as your advisers or

/liaison

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liaison officers to the civilian authorities the expenditure involved is a proper charge against Army votes. If, on the other hand, they are required by you to perform administrative functions which should ordinarily be performed by the civil authorities all expenditure in respect of this should ultimately be met by the responsible civil authorities and should be dealt with in the manner described in para. 1 above."

5. Sir Alexander Cadogan has been asked to comment on the proposal that *an account* ~~a Bill~~ should be presented to the appropriate authorities in respect of expenditure on such civil administration as may be essential for the purpose of the military evacuation and to suggest when and how it should be put to the United Nations Commission.

6. It is noted from your telegram No. 277 that it is your intention to turn over the whole of the railways and ports administration to the Commission on the 15th May, but that British staff remaining would be employed by the GOC who would instruct the management to operate the railway and Haifa Port so as to meet his requirements and would, if necessary, himself employ the railway and Haifa Port staff required for his purposes.

7. I should be grateful for your views on how far it is expected that the GOC will find it necessary to operate the
/railways

(29) on 75872/160

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railways and Port services for purposes other than those immediately connected with the evacuation. Presumably it will be necessary to ensure that imports required to maintain the life of the country are permitted to pass through the Port and possibly a certain amount of rail transport to meet civil requirements will also be essential; In particular it may be necessary to make available the Central Workshops at Haifa for the purpose of servicing and repairing locomotives and rolling stock operating under the civil administration outside the "enclave". I am not quite clear whether you contemplate that it will be possible for the civil administration physically to operate any of the railways and Port services in the Haifa enclave.

8. Of the ~~presumption~~ made above that certain services in Haifa will have to be maintained in the interests of the civilian population the question also arises of the extent to which it will be necessary for the military authorities (through the agency of seconded British staff) to collect Port dues, railway passages and freight charges and customs revenue. I had understood from Fletcher-Cooke when he was here that the collection of customs duties could not be carried out without the supervision of British staff and since British staff could only be employed by the GOC and not by the Commission

except

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(except on ^{after leaving the Colonial Service} voluntary engagements) which ^{it} might be the simplest arrangement ²⁹

(particularly as the presence of any United Nations Commission administration in Haifa might well cause disturbances) for the collection of revenue to be undertaken by the military authorities. The rapid clearance of goods through the Port would in any case seem to be essential for the purposes of evacuation ^{it} and would scarcely be defensible to allow valuable revenue to ~~be not~~ ^{remain} collected.

9. The Foreign Office Legal Advisers' opinion is that while the military commander in an area of military control should leave the operation of public services as much as possible to the authorities normally responsible for them, he may, and possibly should, to the extent which the achievement of his object and his resources permit, undertake so much of the operation of the services as is necessary for his purpose or enables the civil administration of the country to be carried on with the minimum of interference. Within these limits, therefore, the military commander is fully entitled to raise revenue from the operation of railways ports and customs for civilian purposes in the areas under his control. It is a recognized principle of international law that if a military occupant collects taxes, he should do so as far as possible in accordance with the legal basis and assessment in force under the ordinary

/law

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law of the country. This does not preclude an increase of taxes, etc. provided that the procedure for their collection and the distribution of their burden remains so far as possible the same.

10. The military commander in Palestine would not in the opinion of the Foreign Office Legal Advisers be entitled to levy contributions to meet the expenses of his forces. He would be bound to apply revenue collected by him in defraying the expenses of the civil administration of the territory under his control to the same extent as it would be so applied by the legitimate authorities of the country (when a military occupant establishes a full military government, he is entitled to appropriate to the use of his army any balance remaining after disbursement of the expenses of the civil administration).

11. The military commander in Palestine would therefore be entitled to apply revenue derived by him from civilian sources first in defraying the expenses of so much of the civil administration as he undertakes, to the extent that such expenses have not been incurred on account of his forces. Any balance should be paid by him to the civil authorities which would otherwise be entitled to receive it. ~~There would, of course, be objections to handing over revenue~~ *The transfer of* /collected

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collected by the British military

authorities to the United Nations

might be considered open to the objection that it
~~Commission since this might be held to~~

Partition
 constituted implementation of the Plan.

On the other hand

revenue of the nature mentioned would,
~~under the Plan~~

~~of course~~, be payable properly to the

if & when it is established
 Joint Economic Board, and the objection

to making over funds for the eventual

use of this body would *perhaps* not be so great.

It can in any event be argued that the

to leave
 objections ~~for not collecting revenue uncollected~~

~~or withholding any available balance from~~

~~as not handing over to the successor~~

~~would be~~
 authority are greater than these

~~to the ones outlined above.~~

12. Before this question is discussed

further by the Official Committee on

Palestine I should be grateful for

your views in consultation with the

Gov. It would be helpful if in your reply

you could indicate whether you anticipate

any considerable falling off of imports

through Haifa between the 15th May -

1st Aug either as a result of

division of trade to Jaffa - Tel Aviv

or of the holding back of shipments by
 importers.

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J.G. Beith, Esq.
Foreign Office.

Colonial Office Reference No. 75672/159/14/48.

With the compliments of Mr J. Gutch.

Date 8th March 1948.

Reference 988 8 U

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Saving.

75872/159/16.

32

From the Secretary of State for the Colonies.

To the Officer Administering the Government of

PALESTINE.

8th March, 1948.

Date

No. 59

Saving.

PRIORITY.

SECRET.

Repeated U.K. Delegation, New York

Brief No.

Saving.

~~Unnumbered~~

"

Washington

Brief No.

Saving.

~~Unnumbered~~

MAINTENANCE OF RAILWAYS AND PORT
SERVICES AND COLLECTION OF REVENUE
AFTER 15TH MAY

I should be grateful for your views in consultation with the G.O.C. on certain questions relating to the maintenance of central Government services and the collection of Port dues and customs revenue after 15th May.

2. In this connexion your attention is invited to the draft directive and administrative instruction to the G.O.C., copy of which was forwarded by Top Secret Priority Savingram No.27 of the 23rd January. Some slight amendments have now been incorporated in the draft (which is still awaiting the comments of the Chiefs of Staff) and for convenience of reference, paras. 9 and 10 of the Directive and 1 and 4 of the Administrative Instruction are reproduced below.

3. Extract from the draft Directive:

"9. It is no part of your duty to
/undertake

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33

To the Officer Administering the Government of.....

- 2 -

undertake any administration of any part of Palestine except in so far as it is essential in order satisfactorily to achieve your object. You will, however, conduct the evacuation with due regard to the welfare of the civilian population and the economy of the country."

"10. You will allow such civilian authority as may be effective in any area under your control to operate to the greatest possible degree and you should interfere only when necessary to achieve your object."

4. Extract from Administrative Instruction:

"1. All expenditure on the civil administration of the areas under your control should be met by whatever civil authorities are functioning in the area. Only if these authorities refuse to meet expenditure on services of this nature which you consider to be essential for the purpose of the military evacuation should any expenditure be incurred by us. In the event of such expenditure being unavoidable separate records should be kept as far as possible of the amounts spent in order that subsequent recovery may if necessary be effected from the appropriate authorities. Similarly records should be kept of stores, surveys and supplies used for such purposes."

"4. You are authorized to employ temporarily officers of the former Government of Palestine under the arrangements described below /to

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Saving.

From the Secretary of State for the Colonies.

To the Officer Administering the Government of

Date

No. **Saving.**

- 3 -

to the extent that this may be essential to assist in the military evacuation. If such officers are required for purely military purposes or to act as your advisers or liaison officers to the civilian authorities the expenditure involved is a proper charge against Army votes. If, on the other hand, they are required by you to perform administrative functions which should ordinarily be performed by the civil authorities all expenditure in respect of this should ultimately be met by the responsible civil authorities and should be dealt with in the manner described in para. 1 above."

5. It is noted from your telegram No.277 that it is your intention to turn over the whole of the railways and ports administration to the Commission on the 15th May, but that British staff remaining would be employed by the G.O.C. who would instruct the management to operate the railway and Haifa Port so as to meet his requirements and would, if necessary, himself employ the railway and Haifa Port staff required for his purposes.

6. I should be grateful for your views on how far it is expected that the G.O.C. will find it necessary to operate the railways and Port services for purposes other than those immediately connected with the evacuation. To what extent will it be necessary to permit Imports required to maintain the life of the country to pass through the Port and will a certain amount of rail transport to meet civil requirements also be essential? In particular, will it be necessary to make
/available

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Saving.

From the Secretary of State for the Colonies.

To the Officer Administering the Government of.....

Date - 4 -

No. Saving.

available essential workshops at Haifa for the purpose of servicing and repairing locomotives and rolling stock, operating under the Civil Administration outside the "Enclave"? I am not quite clear whether you contemplate that it will be possible for the Civil Administration physically to operate any of the Railway and Port Services in the Haifa Enclave.

7. If certain services in Haifa will have to be maintained by the G.O.C. in the interests of the civilian population, the question also arises of the extent to which it will be necessary for the Military Authorities (through the agency of seconded British staff), to collect Port dues, railway passenger and freight charges and customs revenue. It was understood from Fletcher-Cooke, when he was here, that the collection of customs duties could not be carried out without the supervision of British staff and since British staff could only be employed by the G.O.C. and not by the Commission (except on voluntary engagement after leaving the Colonial Service), any collection of revenue would presumably have to be undertaken by the Military Authorities, (particularly as the presence of any United Nations Commission Administration in Haifa might well cause disturbances.) The rapid clearance of goods through the Port might in any case be essential for the purpose of evacuation, and there are obvious objections to allowing valuable revenue to remain uncollected. On the other hand, it is not intended that the Military Commander should undertake civil administrative tasks, unless it is /essential

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Saving.

From the Secretary of State for the Colonies.

To the Officer Administering the Government of.....

Date

No. Saving.

- 5 -

essential in the interests of evacuation, and I understand that the C. in C., M.E.L.F. has informed the War Office that it is unlikely to be practical for the G.O.C. to collect port and customs duties.

8. The Foreign Office Legal Adviser's opinion is that while the Military Commander should leave the operation of public services as much as possible to the authorities responsible for them, he may, to the extent which the achievement of his object and his resources permit, undertake so much of the operation of the services as is necessary for his purpose, or enables the Civil Administration of the country to be carried on with the minimum of interference. Within these limits therefore, the Military Commander would be entitled to raise revenue from the operation of railways, ports and customs for civilian purposes in the areas under his control. It is a recognised principle of International Law that if the military occupant collects taxes, he should do so as far as possible in accordance with the legal basis and assessment in force under the ordinary law of the country.

10. The Military Commander in Palestine would not, in the opinion of the Foreign Office Legal Adviser, be entitled to levy contributions to meet the expenses of his force, but he would be entitled to apply revenue derived by him from civil forces in defraying expenses of so much of the civil administration as he undertakes. Any balance should normally be paid by him to the Civil Authorities which would otherwise be entitled to receive it.

/The

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To the Officer Administering the Government of

No. Saving.

- 6 -

11. Before this question is discussed further by the Official Committee on Palestine, I should be grateful for your views in consultation with the G.O.C. It would be helpful if in your reply you could indicate whether you anticipate any considerable falling off of Imports through Haifa, between 15th May and 1st August, either as a result of diversion of trade to Jaffa - Tel Aviv, or of the holding back of shipments by Importers.

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40

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E 1018

38

1948

PALESTINE

24 JAN 1948

Registry
Number

FROM

No.

Dated

Received
in Registry

E1018/8/31

P2

M'Low

20 Jan

24 -

Army Stores, Palestine & Egypt.

A. Tan asked what is tonnage of Army Stores
and equipment now in Palestine and Egypt: and how
much is to be evacuated prior to Aug 48.M. Minwell. Total tonnage is 1,550,000 tons
It is proposed to store 628,000 tons, not in
offered to my supply for disposal.

Last Paper.

988

(Minutes.)

Now see E1020

References.

H13. 24/.

(Print.)

(How disposed of.)

(Action
completed.)

J. E. H. 29/1

(Index)

J. E. H. 29/1

Next Paper.

1083

29470 F.O.P.

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39
E 10121
E
Parliamentary Question
24 JAN 1948

36.
* 18. Mr. Low.—To ask the Secretary of State for War, what is the tonnage of Army stores and equipment now in Palestine and Egypt; and how much is to be evacuated prior to August 1948. *

ARMY 20 JAN 1948
REPLY

20th January, 1948.

WAR OFFICE DRAFT REPLY.

The total tonnage of Army stores and equipment now in Palestine and Egypt is 1,550,000 tons. It is proposed to retain 623,000 tons of which 5000 tons of material in short supply will be returned to the U.K. and the remainder will be used to meet the needs of our Forces in the Middle East. The other 927,000 tons is being offered to the Ministry of Supply for disposal. It is hoped that the stores in Palestine which we wish to retain will be moved by August, 1948.

See E. Vincent.

Mr. Mayhew's office.

16th January, 1948.

Mr. Reesley, Eastern Dept.
Mr. Maitland, Egyptian Dept.

It is probable that the sentence I have underlined will provoke supplementary questions, asking ~~whether~~ for an assurance that none of the military material disposed of will find its way to the Arab side in Palestine. The Secretary of State has already told the House that we shall not leave any 'dangerous toys' behind us when we leave Palestine, and this could be repeated. But the S/S for War

21.

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RECEIVED IN C.B.
20 JAN 1948
SENT TO DEPT.
24 JAN 1948

War ^{may} also be asked whether any ^{lethal} material disposed of in Egypt is likely to find its way into Palestine. From Eastern Department's point of view, it is of the highest importance that assurances should be given on these points and that they should be as explicit as possible. Our reasons for this are:

- (i) We hope to isolate the now inevitable conflict in Palestine, with a view to bringing it to an end as soon as possible;
- (ii) Supply of arms from abroad to either side would be contrary to this policy;
- (iii) The U.S. Government will be under heavy pressure to release arms for the Jews;
- (iv) The State Department will try to hold out against this pressure, and their position would be weakened by any suggestion that we were allowing military material to pass into the hands of the Arabs.

Perhaps the simplest way of meeting ^{the} ~~this~~ difficulty would be to insert in the draft answer, after the words "The other 927,000 tons", some such phrase as: "none of which consists of warlike stores". Supplementaries, which should be easy to answer, might then ask for details of the type of material concerned.

H. Beeley 17/

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I agree with Mr. Beeky that the most explicit assurances are called for.

At the present moment the Ministry of Supply are considering offering for sale to the Egyptian Government 50,000 tons in the form of armoured vehicles for breakdown for scrap. This figure is presumably included in the 927,000 tons mentioned in the draft reply. If this sale does materialise, we will instruct the Embassy at Cairo to ensure that none of these stores may be adapted for military use. I do not know what condition these vehicles are in at present, but I presume that they are without either guns, breech blocks, tracers or engines.

In view of this, I suggest that the addendum proposed by Mr. Beeky might read: "none of which consist of stores of military value." We must first verify, however, that the vehicles are in fact without guns, breech blocks, etc.

John Aitland

17/1

I agree.

John Aitland
14/1

W.O. informed,

Mr. Mayhew.

M. J. J.
19/1

The/

NOTHING TO BE WRITTEN IN THIS MARGIN.

The Ministry of Supply have now informed me that they have instructed their mission in Egypt to ensure that these vehicles are fully de-militarised before sale, and that the contract must include a clause to the effect that the vehicles will be used for breakdown for scrap only.

John
19/1

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Minutes.

The War Office were anxious not to define too closely the equipment being offered to the Ministry of Supply for disposal, since much of it consists of war-like stores such as tanks and guns.

These tanks and guns are thoroughly demilitarised before being sold.

The War Office ask that any supplementary assurance should not be incorporated in the text but kept as a note for Supplementaries.

After speaking to Mr. Beeley, I told the War Office that we would favour the inclusion of an assurance in the text, but would not insist if they very much preferred to keep it as a note for Supplementaries. They agreed to include for Supplementaries some such wording as "Any material passed to the Ministry of Supply will be demilitarised before disposal".

Mr Beeley

N. Reddaway

January 19th, 1948.

H.B. 17/

Stores (Palestine and Egypt)

Mr. A. R. W. Low asked the Secretary of State for War what is the tonnage of Army stores and equipment now in Palestine and Egypt; and how much is to be evacuated prior to August, 1948.

Mr. Shinwell: The total tonnage of Army stores and equipment now in Palestine and Egypt is 1,550,000 tons. It is proposed to retain 623,000 tons, of which 50,000 tons of material in short supply will be returned to the United Kingdom and the remainder will be used to meet the needs of the Forces in the Middle East. The other 927,000 tons are being offered to the Ministry of Supply for disposal. It is hoped that the stores in Palestine which we wish to retain will be moved by August, 1948.

Mr. Low: Will the right hon. Gentleman say whether or not a planned evacuation of these stores from Palestine is being maintained?

Mr. Shinwell: The right hon. Gentleman knows the circumstances. I should say, "Yes."

20 JAN 1948

NOTHING TO BE WRITTEN IN THIS MARGIN.

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Mr. Shinwell: The total tonnage of Army stores and equipment now in Palestine and Egypt is 1,550,000 tons. It is proposed to retain 623,000 tons, of which 50,000 tons of material in short supply will be returned to the United Kingdom and the remainder will be used to meet the needs of the Forces in the Middle East. The other 927,000 tons are being offered to the Ministry of Supply for disposal. It is hoped that the stores in Palestine which we wish to retain will be moved by August, 1948.

Mr. Shinwell: The right hon. Gentleman knows the circumstances. I should say, "Yes."

20 APR 1948

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En Clair by confidential bag

27 JAN 1948
DEPARTMENTAL

FROM BEIRUT TO FOREIGN OFFICE

Mr. Houstoun Boswall.
No. 4. Saving.

16th January 1948.

R. 24th January 1948.

Repeated to Bagdad No. 3. Saving.

Cairo No. 3. "
Damascus No. 4. "
Jedda No. 3. "
Amman No. 4. "
Jerusalem No. 3. "
B.M.E.O. No. 3. "

Addressed to Foreign Office No. 4. Saving of 16th
January repeated to Bagdad, Cairo, Damascus, Jedda,
Amman, Jerusalem and B.M.E.O. all saving.

Your telegram No. 77 Intel paragraph 2 (d).

Palestine; Illegal Immigrants.

Reference to "the emptying of Cyprus camps" in speeches by Colonial Secretary and Foreign Secretary in the House of Commons passed virtually unnoticed here. Recent diversion however of two illegal immigration ships to Cyprus called attention to the problem and there has been some comment in the press on the danger of the "Cyprus abscess".

2. It can be taken for granted, the transfer of the immigrants, even after the termination of the Mandate will cause the worst possible impression in Arab countries and I submit that in the course of the coming months public references to their transfer should as far as possible be avoided. When the time comes for them to be moved there would clearly be advantage in the actual transfer arrangements being made by the Jewish Authorities and not by the British Authorities. No doubt it will be explained at the same time that after the termination of the Mandate His Majesty's Government (who would presumably be glad to get rid of this large number of useless mouths) have no longer the legal right to detain them in Cyprus.

3. It also occurs to me that an effort might also be made to resettle the immigrants elsewhere than in Palestine. I realise that the practical results might be extremely limited but an effort on the part of His Majesty's Government in this direction might have considerable propaganda value in Arab countries.

[Copy sent to Middle East Secretariat.]

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PALESTINE

27 JAN 1948

Registry
Number
FROM

No.

Dated

Received
in Registry

E1114/8/31

60

Laminated

27 Jan

Lydda airport

80 of 250 of 22/1. Question of keeping Lydda airport in operation in the period after the withdrawal of civil administration has been under consideration. This was on the condition is one of limited staff etc like whether the use of the airport for any period after the withdrawal of civil administration. From part of the military plan.

Last Paper.

1104

References.

(Print.)

(How disposed of.)

(Minutes.)

In P.P. P'tine tel 251 21/1

#13. 31/1

In P.P. P'tine tel 640 13/3

#13. 7/2

Crenyal Dept. 24 Mar.

In P.P. P'tine tel 782 28/3

JB Apr 5

Crenyal Dept. 9 Apr

JB Apr 6

(Action
completed.)

J. E. 2/2

(Index)

J. E. 2/2

Next Paper.

1173

29470 F.O.P.

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1 APR 1948

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REPORT FROM
THE
COMMISSIONER OF THE
BUREAU OF THE CENSUS
U. S. DEPARTMENT OF COMMERCE
WASHINGTON, D. C.

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INWARD TELEGRAM

TO THE SECRETARY OF STATE FOR THE COLONIES

Cypher(O.T.P.)

FROM PALESTINE (Gen. Sir A. Cunningham)

D. 15th March, 1948.

R. 14th " " 06.50 hrs.

No. 640 Secret

Addressed to S. of S.

Repeated UKDEL New York, No. 693 (Washington please pass).

Re telegram No. 251 of 31st January repeated to UKDEL BREF No. 269.

Lydda Airport.

2. Government is advised that aircraft equipment and radio aids to navigation require replacement at an estimated cost of £(P)20,000. The equipment was taken over from the P.A.F. and is now only obsolete but at the end of its life. There should be no difficulty about obtaining it from other few sources without any major delay but a serious order must be envisaged before the end of this year. In order to secure delivery in time, it is necessary to place an order for new equipment.

3. This question has partly arisen from expiry of the operating permits over future operations from the Lydda bases.

4. It would not be proper for the Palestine Government to enter into a commitment of this kind at this stage, and it is assumed that H.M. Government would be reluctant to give special assistance on the guaranteeing payment for equipment orders.

5. On financial grounds. If serious difficulties arise, control over Lydda and not continue to increase it as an international airport. They should be prepared to face the necessary equipment. It may be that they could obtain quicker delivery from dollar sources.

(b) On security grounds. Latest indications point to considerable fighting around Lydda immediately after 15th May and whichever community succeeds in establishing itself, the airport will no doubt come under special attack from the other.

6. If you agree please authorize UKDEL to approach the Commission inviting their attention to the conditions which are likely to arise unless they can arrange for re-equipment before the end of this year. This Government would be prepared to offer technical assistance in determining what equipment was required.

Copies sent to:-

Ministry of Civil Aviation

Foreign Office

Mr. G. G. (M.O.)

Central Office

Mr. H. G. Vincent

Registry Test

Mr. A. J. Allen

Mr. J. G. Smith

Mr. W. H. Williams

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INWARD TELEGRAM

TO THE SECRETARY OF STATE FOR THE COLONIES

Cypher (O.T.P.)

FROM PALESTINE (Gen. Sir A. Cunningham)

D. 31st January, 1948.
R. 31st " " 19.55 hrs.

No. 250

Addressed to S. of S.
Repeated to U.K. Delegation, BRIEF No. 269
(Washington please pass).

Your telegrams No. 250 and BRIEF No. 10.

Lydda Airport.

Whether Lydda will be usable by B.O.A.C. after the termination of the mandate is pure speculation but having regard to the high standards of safety required by the B.O.A.C., I am inclined to agree broadly with your appreciation that it will be unusable.

2. Use of Lydda does not form an integral part of the military plan. Its use would be convenient, but not essential.

3. British staff of the airport are 14 officers, all holding key posts. They could not be seconded to the B.O.A.C. for this purpose and, with one or two exceptions, are not prepared to remain after the withdrawal for voluntary re-engagement with a successor authority. It is for the Commission to say whether they propose to replace them. There is no doubt that sporadic attacks on Lydda will take place, and it is probable that the approaches will be unsafe for some time, but the Jews are keenly alive to the value of civil aviation and of preserving the international character of Lydda. Arab airlines such as M.I.S.R., Arab Airways, Middle East Airways and Eastern Airlines are reported to be expecting to use Lydda and the Jews are said to welcome it. They are confident of being able to maintain its security notwithstanding sporadic attacks. Lydda will probably remain in operation with limited degree of security after the withdrawal, but present indications are that several landing bays will run (2 obvious) risks.

Copies to be sent to:

Ministry of Civil Aviation	Mr. H.G. Vincent
" " "	Registry Tels.
Colonial Office	Mr. A.J. Edden
" " "	Mr. J. Beith
Mr. Clegg (H.O. 4)	Mr. Col. M.M. Chatterjee

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OUTWARD TELEGRAM

E 111

22923/42/1/48

Cypher (O.T.P.)

27 JAN 1948

TO PALESTINE (Gen. Sir A. Cunningham)

FROM S. OF S. COLONIES

Sent 22nd January, 1948. 16.30 hrs.

No. 250 Secret.

Addressed to High Commissioner, Palestine.
Repeated to UKDEL New York, BRIEF No. 10 for
Trafford Smith.

Question of keeping Lydda airport in operation in the period after the withdrawal of the civil administration has been under consideration here. As we see it, it will not be possible for British staff to remain at the airport unless they accept voluntary re-engagement by the successor authority or unless the airport is required by the G.O.C. in connection with withdrawal of British Forces in which case they could be temporarily re-employed by the Army. If the airport is not required for military purposes, it seems inevitable that now that it has been allocated under the partition plan entirely to the Jewish State the Arabs will make every effort to obstruct its operation by the Jews, and that the airport may be unusable by B.O.A.C. except for such period, if any, as the military may require it. The Ministry of Civil Aviation attach utmost importance to continued use of Lydda for through services, particularly in view of possibility of further cholera difficulties in Egypt.

2. I should be glad to know whether you agree with this appreciation of the position and whether the use of Lydda airport for any period after the withdrawal of the civil administration forms part of the military plan.

Copies sent to:-

Ministry of Civil Aviation	-	Mr. H.G. Vincent.
" " "	-	Registry Tels.
Foreign Office	-	Mr. A.J. Edden.
" " "	-	Mr. J. Beith.
War Office (M.O.4.)	-	Lt.Col. M.M. Charteris.

(Copies sent to Foreign Office for transmission to New York)

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44

E

49

E 1173

PALESTINE

JAN '348

Registry
Number } E1173/8/31
FROM } Sir S. Lucas
No. } P Q
Dated } 26 Jan
Received }
in Registry } 28 -

withdrawal from Palestine.
Sir S. Lucas asked PM if he will give assurance
that the date of final evacuation of British troops
and material from Palestine will not be postponed
or delayed by any considerations for the orange harvest.
Mr. Reid will answer. After the transport and departure
of troops will not delay the withdrawal of British
troops as the evacuation of material.

Last Paper.

1114

(Minutes.)

Mr. Reid 28

References.

H13. 311

(Print.)

(How disposed of.)

(Action
completed.)

J. E. 11/2

(Index.)

11/2

Next Paper.

1276

29470 F.O.P.

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E 1170

EASERN

E-1170
E

Parliamentary Question

- U * 39. Sir Jocelyn Lucas, ~~1738~~ the Prime Minister, if he will give an assurance that the date of final evacuation of British troops and material from Palestine will not be postponed or delayed by any consideration for the orange harvest; and that the passage of troops and material will have absolute priority over all other traffic. [Monday 26th January.]

Portsmouth S.

ARCH 26 JAN 1948

F.O. ARE NOT ASKED TO ADVISE

The Colonial Office have been asked to take this Question.

Vincent

29/1. Mr. Mayhew's office.

PALESTINE

Evacuation

149. Sir J. Lucas asked the Secretary of State for the Colonies if he will give an assurance that the date of final evacuation of British troops and material from Palestine will not be postponed or delayed by any consideration for the orange harvest; and that the passage of troops and material will have absolute priority over all other traffic.

Mr. Rees-Williams: Yes. The transport and export of citrus will not delay the withdrawal of British troops from Palestine or the evacuation of materials.

(108)

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p.w. 51

PARLIAMENTARY QUESTION

PALESTINE Evacuation

149. **Sir J. Lucas** asked the Secretary of State for the Colonies if he will give an assurance that the date of final evacuation of British troops and material from Palestine will not be postponed or delayed by any consideration for the orange harvest; and that the passage of troops and material will have absolute priority over all other traffic.

Mr. Rees-Williams: Yes. The transport and export of citrus will not delay the withdrawal of British troops from Palestine or the evacuation of materials.

26 JAN 1948

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<p>27 1948</p>	<p>Palestine EASTERN</p>	<p>E1276 /G 29 JAN 1949</p>
<p>E1276/813/6 Mr Nigham C.O. Mr Keith Y5872/160/1/48 dated 28 Jan.</p>	<p>Oil Installations at Haifa</p>	
<p>Last Paper. E1083 (E855)</p>	<p>(Minutes.)</p>	
<p>References.</p>	<p>This draft takes account of our Legal Advisers' views (see E11572/19373/6/47) and is I think all right on the legal side (para. 4).</p>	
<p>(Print.)</p>	<p>The S/S has asked for a report on the Mr. J. Tuel and Powers' alternative plans in the event of Haifa being out of action for a time and Mr Mitchell is due to produce a letter today. The result of our withdrawal is almost bound to be a net</p>	
<p>(How disposed of.)</p>	<p></p>	
<p>(Action completed.) 5/12</p>	<p>(Index.) WJH</p>	<p></p>
<p>Next Paper.</p>		

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Perhaps Co. should be asked
to strengthen the draft and
ask the Itc. and C.O.C.
to consider urgently any
possibilities of minimizing
this loss (though there is little
enough they can do about it)

Jan 30

K.A.C. Wilhelm

34.

Finley av.
307

The draft seems all right to me.

L. C. L. Pagan
2/2

BAB Furrow

4.2

Co. informed of
consequence & amendments
by telephone JB Feb. 3

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3.2

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My Reference 75872/160/1/48.

Your Reference

TOP SECRET

My dear Polun.

There are several matters outstanding concerning the oil installations at Haifa and I should like to try and get these cleared up in a comprehensive savingram to the High Commissioner for Palestine, of which I enclose a draft. I should be grateful for your early comments and those of Charteris and Monsell-Davies to whom copies of this are being sent.

Yours ever,
John Higham
(J. Higham)

J. G. S. BEITH, L.B.

The Church House,
Gt. Smith Street,
S.W.1.

E1276
28th January, 1948.

enter soon 53

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Higdon

1248.

PRIORITY
SAVINGRAM

Addressed High Commissioner, Palestine.
Repeated U.K. Del. New York.

Protection of Haifa oil
installations after withdrawal.

Official Committee on Palestine have been asked to consider question of protection of Haifa oil installations after the general withdrawal of British forces on 1st August.

2. As you will be aware the Chiefs of Staff have already informed the Commanders in Chief that the protection of the oil pipeline, as distinct from the installations at Haifa, can cease progressively as our fighting troops withdraw. The protection of the installations at Haifa will not present the same military problems, as the Refineries contain a large quantity of very valuable plant which could not be replaced without considerable delay, and in addition ~~the Refineries~~ have a function

/independent

Copies to:-

Mr. Burrows)

Mr. Beeley

Mr. Beith

Brig. Hamilton

Lt. Col. M. Charteris)

Mr. W. D. Monsell-Davis

Mr. Luke

Lt. Col. Sherman.

Foreign Office

War Office

•)Ministry of Fuel
& Power

Cabinet

Office.

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independent of the pipeline, *then protection is of great importance*

3. We understand that oil companies are making arrangements to strengthen the local guards and that by the 1st August these will be sufficient to ensure the protection of the Refinery against the action of individual hooligans. While it may be that responsible Jews and Arabs will recognise that the continuing functioning of the Refineries is in the best interests of both sides, the possibility cannot be excluded of an attack by either the Hagana or more probably, the Arab para-military forces. In this connection attention is drawn to paragraph 7 below. A small military force would be required for protection against a threat by such organisations. The War Office are inviting the C. in C. M.E.L.F. to report on the feasibility of defending the oil installations after our withdrawal and the forces that would be required.

4. It would clearly be difficult for H.M.G. to modify their declaration that British forces will be completely withdrawn by the 1st August, unless some clear justification for this presented itself, such as a complete breakdown in the arrangements to be made by the United Nations for the future of the territory, or the existence of such a state of disorder as to warrant the retention of troops for the protection of British lives and property. Failing any such justification the only legal basis on which troops ^{*might*} ~~should~~ be retained at

/Haifa

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Haifa would be at the request or with the permission of the United Nations Commission, or of the local State if one had by then been set up.

5. The time is not yet appropriate for an approach to the United Nations Commission and at the moment no action is being taken beyond the formulation of plans. I should, however, be grateful for any observations you may wish to make at this stage. In particular, you may wish to say whether you consider that the protection of the installations by British troops will in itself be sufficient to ensure the continued operation of the refineries.

Maintenance of output of the refineries up to 1st August.

6. I am glad to note that limited operation of the refineries commenced on the 22nd January and that it is hoped, provided nothing unforeseen occurs, to resume full working in about three weeks' time. Concern has been expressed here about the effect of any further interruption of work not only on the economy of Palestine, but on supplies of oil for the sterling area. Although I appreciate that it is not possible to eliminate the possibility of further trouble among the mixed labour at Haifa, I should be grateful to know whether it has been possible to take any steps, in conjunction with the oil companies,

/to

and other markets normally supplied through the Haifa refinery.

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to minimise the effect of further incidents and to ensure the maintenance of output for as long as we remain in control. It would be helpful if your reply could be agreed by G.O.C. as regards recommendations for the period of military control. In this connection I would draw your attention to my telegram K.173 regarding replacement of Arab workers by Jews.

The attitude of Arab States.

7. The Iraqi Delegation which has been negotiating the Anglo-Iraqi Treaty in London represented to the Foreign Secretary and myself that it was intolerable from the point of view of Iraqi public opinion that Iraqi oil should be used to enable Jews to kill Arabs in Palestine. They ask that careful consideration should be given to the possibility of cutting off supplies of oil from the Haifa refinery to the Jewish forces in Palestine. They recognise that it might be impossible to do this without also cutting off supplies to the population generally, Arab as well as Jewish, and they were prepared to accept these consequences. There can clearly be no question, while British administration of Palestine continues, of agreeing, in the face of such an implied threat, to take action which would totally paralyse either one or both sections of the population. I imagine too that there would be insuperable difficulties in the way of preventing the misuse of oil products by either community. I should, however, be grateful for any observations you may have on this Iraqi proposal, and

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END

in particular to be advised in general
terms of the effect which a cessation of
oil supplies from Iraq would have both
on the Jewish and Arab communities.

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